

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83082**

This is to certify that: ISLAND WOODS HOMEOWNERS ASSN INC
PO BOX 193
EAGLE, ID 83616

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-32594	WR/DECREED	6/1/1877	0.230 cfs	N/A	N/A	39.0	BOISE RIVER
63-32596	WR/DECREED	6/1/1891	0.550 cfs	N/A	N/A	39.0	BOISE RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-32594	NO	YES	NO	NO	NO	NO
63-32596	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-32594	63-32594	0.230 cfs	N/A	N/A	25.1	N/A	N/A	N/A	N/A	N/A
63-32596	63-32596	0.270 cfs	N/A	N/A	25.1	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.500 cfs	N/A	N/A	25.1		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 10th day of JULY, 2019.

SUPPORT DATA

FILE # 63-32594


Chief, Water Allocation Bureau

Transfer No. 83082

WATER RIGHT NO. 63-32594

As Modified by Transfer No. 83082

In accordance with the approval of Transfer No. 83082, Water Right No. 63-32594 is now described as follows:

Right Holder: ISLAND WOODS HOMEOWNERS ASSN INC
PO BOX 193
EAGLE, ID 83616

Priority Date: 6/1/1877

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From 03/01 **To** 11/15

Diversion Rate
0.230 cfs
0.230 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L2 (NWNE) Sec 21 Twp 04N Rge 01E ADA County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	16									1.5	11.0	8.2	4.4					25.1
											L 6	L 5		L 6					

POU Total Acres: 25.1

CONDITIONS OF APPROVAL

1. Rights 63-32594 and 63-32596 when combined shall not exceed a total diversion rate of 0.50 cfs, and the irrigation of 25.1 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.

Transfer No. 83082

WATER RIGHT NO. 63-32594

As Modified by Transfer No. 83082

CONDITIONS OF APPROVAL

5. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
6. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
7. This right originated as all or part of right no. 64 in the Stewart Decree and the historic Boise River Water Masters records.
8. This right is a split from former right 63-196 .
9. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
10. Property is also known as Island Woods Subdivision.
11. This right does not grant any right-of-way or easement across the land of another.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-32596
As Modified by Transfer No. 83082

In accordance with the approval of Transfer No. 83082, Water Right No. 63-32596 is now described as follows:

Right Holder: ISLAND WOODS HOMEOWNERS ASSN INC
 PO BOX 193
 EAGLE, ID 83616

Priority Date: 6/1/1891

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
 IRRIGATION

From 03/01 **To** 11/15

Diversion Rate
 0.270 cfs
 0.270 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L2 (NWNE) Sec 21 Twp 04N Rge 01E ADA County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	16									1.5	11.0	8.2	4.4					25.1
											L 6	L 5		L 6					

POU Total Acres: 25.1

CONDITIONS OF APPROVAL

1. Rights 63-32594 and 63-32596 when combined shall not exceed a total diversion rate of 0.50 cfs, and the irrigation of 25.1 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.

Transfer No. 83082

WATER RIGHT NO. 63-32596

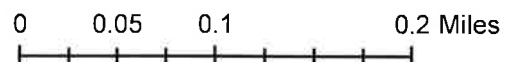
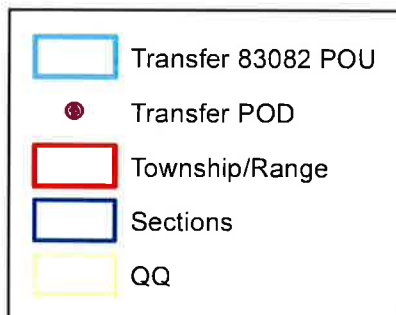
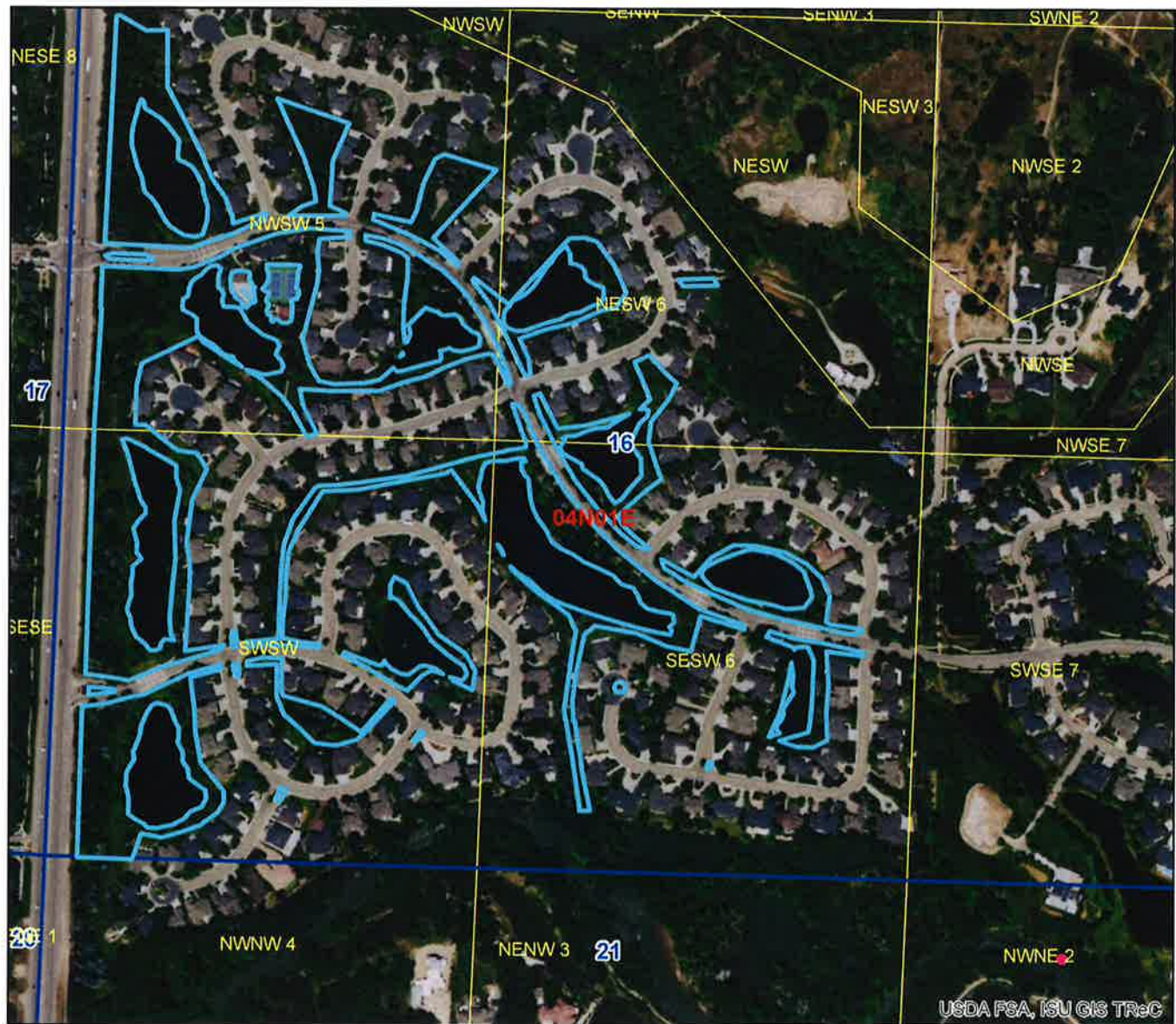
As Modified by Transfer No. 83082

CONDITIONS OF APPROVAL

5. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
6. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
7. This right originated as all or part of right no. 118 in the Stewart Decree and the historic Boise River Water Masters records.
8. This right is a split from former right 63-197.
9. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
10. Property is also known as Island Woods Subdivision.
11. This right does not grant any right-of-way or easement across the land of another.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources
Attachment to Transfer No.83082
Water Right(s): 63-32594 & 63-32596

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



MAR 15 2019

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☐ Ownership split
☐ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Island Woods Homeowners Association, Inc. Phone 208-869-24942. **MAILING ADDRESS** PO Box 193 City EagleState ID Zip 83616 Email _____

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 63-32594, 63-32596

- ☒ Attach a copy of the water right(s) as recorded, available at idwr.idaho.gov, Water Right Transfers, Step 1, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.78 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, Water Rights, Water Right Transfers, Modeling Resources.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
No			NW	NE	21	4N	1E	Ada	Boise River	Conway Hamming
										Ditch

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Headgate, ditch and pipe. Diversion is under the control of the Boise River Watermaster and represents the Conway Hamming Ditch. There has been no physical change in the location of this historic diversion. See attached letter.

- b. Who owns the property at the point(s) of diversion? n/a

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Established ditch easement (see attached letter from the Water District 63 Watermaster)

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. You may create a map at idwr.idaho.gov, Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Deborah Miller
Signature of applicant or authorized agent

Deborah Miller
Print name and title if applicable

3-7-2019
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov. Water Right Transfers, Step 4 and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by CS

Date 03/15/19

Fee paid \$100⁰⁰ Date 03/15/19

Received by CS

Receipt # W047210

Preliminary review by JS

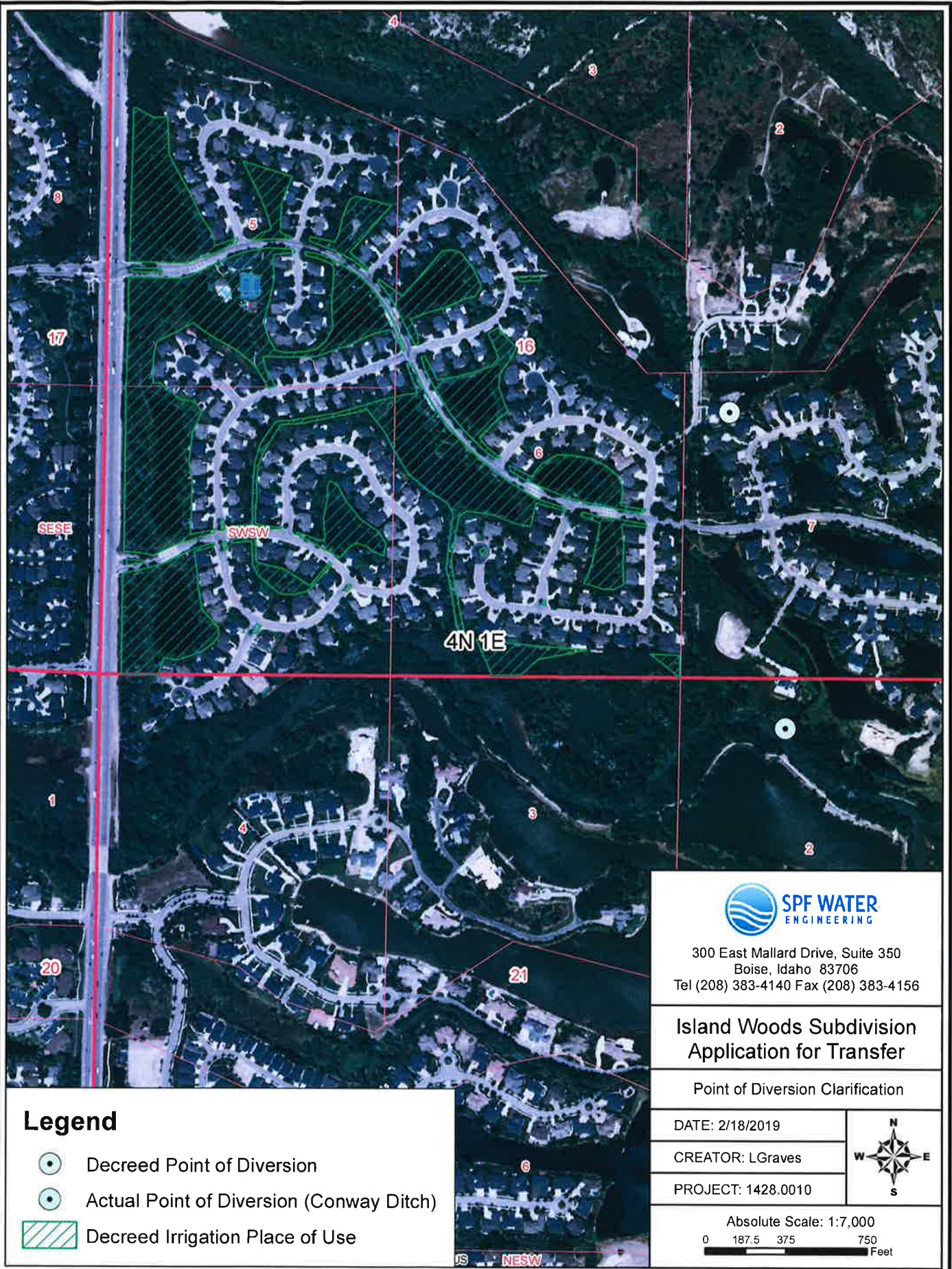
Date 5/2/19

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)



300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

Island Woods Subdivision Application for Transfer

Point of Diversion Clarification

DATE: 2/18/2019

CREATOR: LGraves

PROJECT: 1428.0010



Absolute Scale: 1:7,000

0 187.5 375 750 Feet

STATE OF IDAHO
WATER DISTRICT No. 63
(BOISE RIVER)

REX R. BARRIE, WATERMASTER
P.O. BOX 767
STAR, IDAHO 83669-0767
(208) 908-5480

February 4, 2019

Candice M. McHugh
380 S. 4th Ste. 103
Boise, ID 83702

Re: Island Woods

Dear Ms. McHugh;

In regards to your recent question about the historic point of diversion (POD) for the Island Woods HOA water right, the records of the Watermaster's office note the POD as the Conway Hamming Ditch.

It appears that the decreed POD was mis-labeled and needs to reflect the Conway Hamming Ditch as the true POD.

Island Woods HOA has been assessed by Water District #63 for many years and assessments have been based on diversion from the Conway Hamming.

Please contact me with any questions.

Sincerely,

Rex R. Barrie
Boise River Watermaster

Cc: Nick Miller, IDWR Western Region Office
Mike Meyers, Deputy Watermaster, WD #63

Sent via e-mail

IDAHO Department of Water Resources



WATER RIGHT REPORT

2/18/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 63-32594

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ISLAND WOODS HOMEOWNERS ASSN INC PO BOX 193 EAGLE, ID 83616 2088692494
Directors Report Owner	LOIS L JOPLIN 2260 S EAGLE RD EAGLE, ID 83616 2089392308
Original Owner	W H CONWAY

Priority Date: 06/01/1877

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	0.23 CFS	
Total Diversion			0.23 CFS	

Location of Point(s) of Diversion:

BOISE RIVER | SWSE Lt 7 | Sec. 16 | Township 04N | Range 01E | ADA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION ADA County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	01E	16	6	NESW	3	5	NWSW	14		SWSW	12	6	SESW	10

Total Acres: 39

Conditions of Approval:

1. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
2. This right is a split from former right 63-196 .
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. 155 This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
5. J01 Property is also known as Island Woods Subdivision.
6. SD1 This right originated as all or part of right no. 64 in the Stewart Decree and the historic Boise River Water Masters records.

Dates:

Licensed Date:

Decreed Date: 02/06/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 63

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
63-32594

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles



IDAHO Department of Water Resources



WATER RIGHT REPORT

2/18/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 63-32596

<u>Owner Type</u>	<u>Name and Address</u>
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Priority Date: 06/01/1891

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	0.55 CFS	
Total Diversion			0.55 CFS	

Location of Point(s) of Diversion:

BOISE RIVER | SWSE Lt 7 | Sec. 16 | Township 04N | Range 01E | ADA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION ADA County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	01E	16	6	NESW	3	5	NWSW	14		SWSW	12	6	SESW	10

Total Acres: 39

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2. This right is a split from former right 63-197 .
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Decreed Date: 02/06/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 63

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

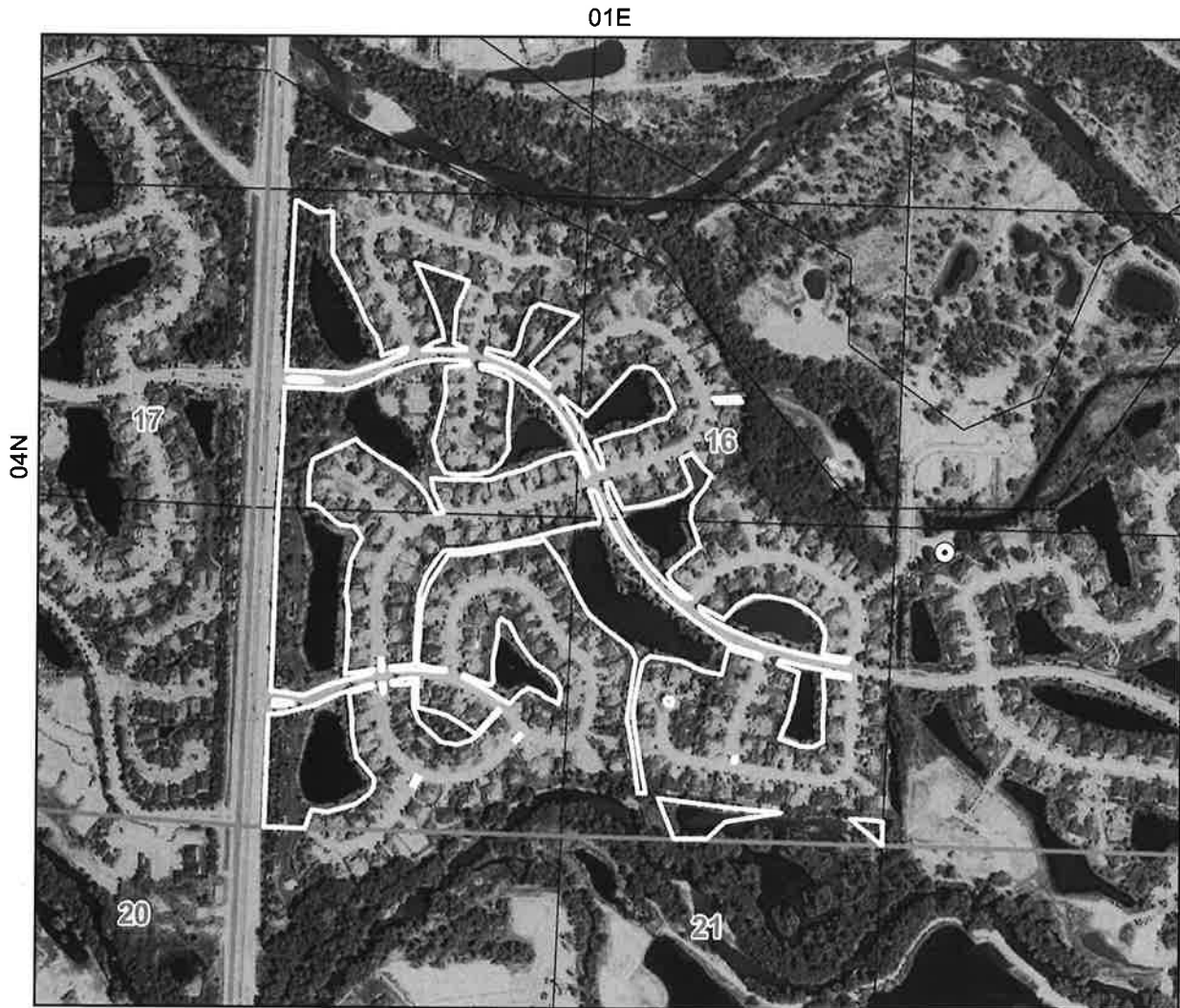
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
63-32596

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



○ Point of Diversion

Place Of Use Boundary



Townships



PLS Sections



Quarter Quarters

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 10, 2019

ISLAND WOODS HOMEOWNERS ASSN INC

Re: Transfer No.: 83082
Water Right Nos: 63-32594 & 63-32596

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Rights. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Rights is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190

Sincerely,



Anna Kaiser

For Nick Miller
Regional Manager

Enclosure

CC:
MCHUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702-7687

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2019 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 83082
Water Right No(s): 63-32594 & 63-32596

ISLAND WOODS HOMEOWNERS ASSN INC
PO B OX 193
EAGLE ID 83616

MCHUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702-7687



Anna Kaiser
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Transfer No. 83082
FROM: Justin Shearer
DATE: June 21, 2019
RE: Evaluation of Application

Transfer proposes POD change for rights historically diverted out of Conway Hamming Ditch. The physical point of diversion not actually changed. The site of the updated POD is at the headgate of what is locally known as Conway Hamming Ditch approximately a ¼ mile SE of the Island Woods Subdivision in Eagle, ID.

Contact person for the applicant is Candice McHugh of McHugh Bromley Attorneys at Law, PLLC.

Summary of Information Submitted

Authority to File:

Applicant, Island Woods Homeowners Association, Inc. is the current owner of WR's 63-32594 and 63-32596. Signator Deborah Miller is recognized on Idaho Secretary of the State annual report and is thus authorized to sign.

Water Right Validity:

The partial decree for water rights 63-32594 and 63-32596 was issued on 2/6/2008. These rights are presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by department aerial imagery, landsat images, google earth images, or other evidence. Evidence of beneficial use does not need to be added to the file it is an IDWR product available to other staff. However, there is evidence of forfeiture for a portion of said rights where multiple ponds are in place instead of irrigated land. Review of historical imagery and LandSat data measures a beneficial use of 25.1 acres of irrigation. Water rights 63-32594 and 63-32596 have an overlapping irrigation place of use of 39 acres. A request for a proper defense to forfeiture was requested May 7, 2019. A response received May 30, 2019 from the applicant's lawyer Candice McHugh, as well as a supplement response on June 13, 2019 acknowledged that the total number of irrigated acres appears to be 25.1 acres according to aerial imagery. Additionally, IDWR will find partial forfeiture of water right 63-32596 decreasing the total acres to 25.1 acres with a reduction in its quantity and that IDWR will reduce the area of 63-32594's place of use to 25.1 acres with no reduction in quantity since the senior right was fully diverted. The rights are otherwise presumed to be valid.

Injury to Other Water Rights:

Because the transfer is only proposing to change the POD to where it has historically been diverted, there is no anticipated reduction in quantity of water available to other water rights, unreasonable effort or expense, unusable water quality, mitigation, or change of source concern. Therefore, injury to other water rights is not anticipated as a result of this transfer.

Enlargement of Use:

Diversion rate and annual volume are not expected increase as a result of moving the POD to where water has historically been diverted from. Additionally, the number of acres, acre limits or permissible place of use will not be increasing. Stacked rights are not a concern in this transfer as there is no proposal to “unstack” rights 63-32594 & 63-32596. The period of use will not be changing. Though water right 63-32594 will receive a slight increase in the rate per acre allowed for irrigation, its rise is under the Department inch-to-the-acre standard. For these reasons, an enlargement of use is not anticipated as a result of this transfer.

Local Public Interest:

There are no anticipated impacts to recreation, fish, or wildlife as a result of this transfer. The transfer complies with applicable water and hazardous substance standards designed to protect the public water resource. The proposed transfer would comply with local and state government regulations, zoning ordinances, and policies. This transfer is compatible with the objectives and policies of the State Water Plan. The application was not advertised because the water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, review of the transfer application found no cause to require public notice. For these reasons, this transfer should be considered in favor of local public interest.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary**Water Right Overlap**

The POU for water rights 63-32594 and 63-32596 overlap. Both rights share the same POD and overlap with water rights 63-216A and 63-182. Water right overlap is not an issue of concern in this instance.

Discussion

Water rights 63-32594 and 63-32596 were subject to forfeiture review as a result of this transfer. Consequently total acreage was reduced on both rights from 39 acres to 25.1 and 63-32596 forfeited a portion of its rate from 0.55 cfs to 0.27 cfs. I updated the POU shape for both rights from a shape that included acreage covered by ponds within the subdivision to a shape that excluded said ponds. I added condition 205 to make clear that the reductions on both rights were a result of forfeiture and not a clerical error. I added condition x35 since both rights involved share the same POU. Condition R65 was added as per irrigation standards. Condition R43 was placed on both rights requiring a measuring device. Condition R05 was added to clarify water district. Condition 004 was placed on both rights since the water right owner does not own the property at the POD. Standard transfer conditions T07 and T08 were added as per department standards. Condition T19 replaced C18.

Assuming other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

McHUGH BROMLEY

ATTORNEYS AT LAW, PLLC

Candice M. McHugh
cmchugh@mchughbromley.com

380 S. 4th Street, Ste. 103
Boise, Idaho 83702
(208) 287-0991

Chris M. Bromley
cbromley@mchughbromley.com

June 13, 2019

RECEIVED

JUN 13 2019

WATER RESOURCES
WESTERN REGION

Justin Shearer
IDWR
2735 W Airport Way
Boise, ID 83705

**Re: May 7, 2019 letter regarding forfeiture concern and Island Woods HOA
water right point of diversion transfer**

Dear Mr. Shearer:

This letter is a supplement response to my letter dated May 30, 2019, and to your letter dated May 7, 2019 regarding possible forfeiture of the Island Woods Home Owner's Association's water right.

Water right no. 63-32594 is the HOA's most senior water right for 0.23 cfs on 39 acres. This water right has always been fully used on the subdivision's full common area which was thought to be 28 acres. The HOA owns 43 acres and of that 43 acres, 15 is pond surface area leaving 28 acres. However, as you noted in your letter, the total number of irrigated acres actually appears to be 25.1 acres according to the imagery. Water right no 63-32594 has been fully used on the entire 25.1 acres, and thus, no diversion rate or acres has been left unused under that water right.

The more junior water right 63-32596 is also used on the HOA's common area but its entire diversion rate has not been fully used, thereby not having been used on 9.9 acres. To that end, I understand that IDWR will find partial forfeiture of water right 63-32596 cutting down the total acres to 25.1 acres with a reduction in its quantity and will reduce the area that 63-32594 can be used on to a total of 25.1 acres with no reduction in quantity.

If you have any questions, please do not hesitate to call.

Sincerely,



Candice M. McHugh

cc: client
Nick Miller

Miller, Nick

From: Miller, Nick
Sent: Tuesday, June 04, 2019 6:10 PM
To: 'C McHugh'
Cc: Shearer, Justin
Subject: RE: Island Woods
Attachments: Island Woods.pdf

Candice,

I think something has been lost in translation here. Justin's May 7, 2019 letter was intended to make the applicant aware that, of the 39 acres of irrigation authorized under the HOA's rights (63-32594 and 63-32596), the department can only verify 25.1 acres of irrigation within the authorized place of use, so 13.9 acres are potentially subject to forfeiture (corresponding to the area inundated by the ponds). The letter asks the applicant to provide a defense to forfeiture. When you and I spoke, I understood you to tell me that the Island Woods HOA maybe has been irrigating closer to the full 39 acres of irrigation, but that some of the irrigation is occurring in areas outside the authorized place of use for the HOA's water rights - land that I understood to be within the authorized place of use for water rights 63-32593 and 63-32595 (owned by the developer and leased into the WSB).

As I read your May 30, 2019 letter in response to Justin's letter, I do not see a statement that the HOA has irrigated any ground outside of its place of use that would contribute to an argument that some portion of the right has not been forfeited. I don't see any statement that the HOA's rights should not be subject to forfeiture of the 13.9 acres. The map that you reference in your letter that shows the "the common area" that has been irrigated seems to depict only the place of use of the HOA's existing rights. As discussed above, 13.9 acres of that 39 acre area are and have been under ponds for a number of years and those acres are subject to forfeiture unless some defense to forfeiture applies.

I have attached a map that shows the 39-acre authorized place of use for the HOA's water rights, as well as the approximate locations of the ponds and the place of use for the developer's rights. Note that the developer's rights and the HOA's rights do not overlap.

I hope this helps us all get on the same page. Sorry for any misunderstanding, it is difficult to describe these things over the phone without looking at a map sometimes!

Feel free to give me a call if you want to discuss this further. Otherwise, I look forward to some correspondence that provides a defense to forfeiture as requested by Justin's letter.

Nick.

From: C McHugh [mailto:cmchugh@mchughbromley.com]
Sent: Thursday, May 30, 2019 1:24 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Subject: Island Woods

Justin,

Please see the attached letter. Is an emailed version ok or do I need to mail it?

Candice M. McHugh

MCHUGH BROMLEY
ATTORNEYS AT LAW PLLC

380 S. 4th, Ste. 103

Boise, ID 83702

(208) 287-0991 – office

(208) 287-0864 – facsimile

cmchugh@mchughbromley.com

<http://www.mchughbromley.com>

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McHUGH BROMLEY RECEIVED
ATTORNEYS AT LAW, PLLC MAY 30 2019

Candice M. McHugh
cmchugh@mchughbromley.com

380 S. 4th Street, Ste. 103
Boise, Idaho 83702
(208) 287-0991

WATER RESOURCES
WESTERN REGION
Candice M. Bromley
cbromley@mchughbromley.com

May 30, 2019

Justin Shearer
IDWR
2735 W Airport Way
Boise, ID 83705

**Re: May 7, 2019 letter regarding forfeiture concern and Island Woods HOA
water right point of diversion transfer**

Dear Mr. Shearer:

This letter is in response to your letter dated May 7, 2019 wherein you noticed that two other water rights, 63-32593 and 63-32595 owned by BW Meridian Inc. have an overlapping place of use with water rights 63-32594 and 63-32596 owned by Island Woods HOA. I discussed this matter with Nick Miller and understand that he relayed that conversation to you.

The developer of the Island Woods subdivision placed water right nos. 63-32593 and 63-32595 into the water supply bank. These water rights have not been diverted and used on the place of use for the water rights owned by Island Woods.

The Island Woods water rights have been used to irrigate the common area within the subdivision as depicted on the map enclosed with the transfer. This transfer is simply to correct the point of diversion to the actual location where the water rights are diverted.

If you have any questions, please do not hesitate to call.

Sincerely,



Candice M. McHugh

cc: client



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W Airport Way • Boise ID 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348

Website: idwr.idaho.gov • Email: westerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

May 7, 2019

COPY

ISLAND WOODS HOMEOWNERS ASSOCIATION, INC.
PO BOX 193
EAGLE ID 83616

Dear Applicant,

On March 15, 2019, you filed a transfer application (#83082) to change the point of diversion to water rights 63-32594 and 63-32596 historically diverted out of Conway Hamming Ditch. Part of the transfer process is forfeiture review due to non-use within the past five year term. Idaho Code §42-222 states in part:

2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.

Review of historical imagery and LandSat data measures a beneficial use of 25.1 acres of irrigation. Water rights 63-32594 and 63-32596 have an overlapping irrigation place of use of 39 acres. A proper defense to forfeiture is required to complete the transfer process. Information that qualifies in defense to forfeiture under Idaho Code §42-223.

Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be approved for less or rejected without a timely written reply within the next thirty (30) days. Refunds are not issued for rejected applications.

Please contact me at 208-334-2190 or in writing for additional information. Thank you for your attention to this matter.

Respectfully,

Justin Shearer
Water Resource Agent, Sr.

Enclosure: Map of Property
Idaho Code §42-223

McHUGH BROMLEY

ATTORNEYS AT LAW, PLLC

Candice M. McHugh
cmchugh@mchughbromley.com

380 S. 4th Street, Ste. 103
Boise, Idaho 83702
(208) 287-0991

Chris M. Bromley
cbromley@mchughbromley.com

RECEIVED
MAR 15 2019
WATER RESOURCES
WESTERN REGION

March 8, 2019

IDAHO DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE, ID 83720

**Re: Island Woods Homeowners Association, Inc. Point of Diversion Transfer and
Notice of Representation**

To Whom it May Concern:

Enclosed please find two applications to correct a point of diversion for Island Woods Homeowner's Association water right nos. 63-32594 and 63-32596 along with the \$100.00 fee. As stated, in the letter from Water District 63, the physical location of the point of diversion has not actually changed. If you have any questions about the enclosed applications, please contact me at 208-287-0991.

Please treat this letter as a Notice of Appearance/Representation for Island Woods Homeowner's Association as well and provide any communication or correspondence relative to this transfer to me at the above address.

Thank you.

Sincerely,


Candice M. McHugh

STATE OF IDAHO
WATER DISTRICT No. 63
(BOISE RIVER)

REX R. BARRIE, WATERMASTER
P.O. BOX 767
STAR, IDAHO 83669-0767
(208) 908-5480

RECEIVED
FEB 04 2019
WATER RESOURCES
WESTERN REGION

February 4, 2019

Candice M. McHugh
380 S. 4th Ste. 103
Boise, ID 83702

Re: Island Woods

Dear Ms. McHugh;

In regards to your recent question about the historic point of diversion (POD) for the Island Woods HOA water right, the records of the Watermaster's office note the POD as the Conway Hamming Ditch.

It appears that the decreed POD was mis-labeled and needs to reflect the Conway Hamming Ditch as the true POD.

Island Woods HOA has been assessed by Water District #63 for many years and assessments have been based on diversion from the Conway Hamming.

Please contact me with any questions.

Sincerely,

Rex R. Barrie
Boise River Watermaster

Cc: Nick Miller, IDWR Western Region Office
Mike Meyers, Deputy Watermaster, WD #63

Sent via e-mail